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CHARGE AGAINST GENERAL HARRISON FOR VOTING TO SELL WHITE MEN FOR DEBT.

SPEECH

OF

MR. MASON, OF OHIO,

ON

THE GENERAL APPROPRIATION BILL.

Delivered in Committee of the Whole in the House of Representatives, April 24, 1840.

Mr. Chairman: In the discussion of the bill now under consideration, I wish to call the attention of the committee to that clause of the first section which relates to the charge

"*That General Harrison voted to sell white men for debt.*"

And, sir, if you should not, after examination, find the charge specifically provided for in the bill, you may see it, with all its variations, in the printed speeches of several gentlemen who have preceded me in the debate. It is, however, with a feeling akin to that of humiliation, that I find myself engaged in defending a distinguished statesman and virtuous citizen, against an oft-refuted and most wanton calumny. Nor would I have consented now to notice it, but for the persevering industry with which the enemies of that individual continue to urge the charge in certain quarters of the Union, and especially in Maryland, Virginia, and North Carolina.

In the manufacture of this story, its authors evidently desired to combine truth and falsehood in such proportions as to secure for it some degree of currency, without, at the same time, subjecting themselves to the charge of wilful misrepresentation. And it must be admitted, that their effort has not proved entirely unsuccessful. But the inventors and propagators of the fraud, cannot escape the condemnation that awaits the guilty. This charge had its origin in a vote that General Harrison gave, as a member of the Senate of Ohio, in January, 1821. The journal of that session is now before me. But, before proceeding further, allow me to say that this charge was fabricated and thrown into circulation in 1836, when General Harrison was first a candidate for the Presidency. It emanated from the friends of Mr. Van Buren in that State, and from men, too, who had doubtless searched the journal with patient diligence, in the patriotic hope that its dusty pages might furnish them with materials for accusation against one of the purest men of the age. And what did they find to reward their industry? *They did not find what they said they did—a vote authorizing the sale of white men for debt;* but they found a vote that was susceptible of misrepresentation, and, therefore, well suited to their purpose. Now, sir, what opinion did these accusers of General Harrison entertain in regard to his vote, as found recorded on the journal? Did they honestly believe it was not justified by the circumstances under which it was given? Did they believe it was indefensible, and that it would render him justly obnoxious to censure? If such had been their real conviction, then why, with the journal before them, did they bring a *false* charge? Why, if they believed the vote was incontestably wrong in principle, or mischievous in policy, did they not go before the public with *a true statement of the case*, and *rely on these objections?* Think you they would have resorted to garbling and falsification, if they had believed that a *true statement could have been made as*

useful to their cause as a falsehood? This supposition would make them sin without temptation, and practise wickedness without any motive. Few men can be found, I imagine, depraved enough to utter a deliberate falsehood, in a case where the truth would answer their purpose just as well, or even better. From all which, I am brought to this practical conclusion, namely, that people residing out of the State of Ohio may well believe that there is nothing very objectionable in the vote of General Harrison, which his opponents, in the State, have admitted, by their resorting to acts of misrepresentation, that they could not successfully assail with the weapons of truth.

In regard to the estimation in which this charge is held by the people of Ohio, consisting of men of all parties, and especially by those who have been most notorious for their zeal in propagating it, I shall have something to say hereafter.

Sir, I wish now to call your attention to the vote of General Harrison, and the circumstances under which it was given. The attention of the Legislature of Ohio, during its session of 1820–'21, was anxiously directed to the consideration of some plan for the relief of the people, then suffering under a degree of distress and embarrassment unexampled in the history of that State. With a currency depreciated and deranged, the financial resources of the State crippled, and a Treasury exhausted, the people loudly complained of the almost intolerable burden of taxation; they demanded retrenchment and reform in the expenses incident to the administration of the criminal laws of the country. In this posture of public affairs, with a gradually increasing expenditure for the prosecution and punishment of offenders, and a penitentiary crowded with convicts, that had become an annual charge on the Treasury, the Legislature assembled, and undertook to provide a remedy for the grievances complained of, by instituting a revision of the entire criminal code of the State. The task was one of great difficulty and labor; but it was accomplished with as much success as was attainable in the then condition of the country. The great object in view was to diminish the public expenditures, in criminal cases, by reducing them to the lowest point consistent with the ends proposed to be secured by the due and proper administration of punitive justice. To effect this, the House of Representatives passed a bill entitled, "*An act supplementary to the act for the punishment of certain offences therein named;*" and sent it to the Senate for concurrence. Several new provisions were introduced into this bill. By it, certain offences which had before been punished by imprisonment in the penitentiary, were made punishable by fine and imprisonment in the county jails. Jurisdiction of assaults and batteries in certain specified cases, was conferred on justices of the peace, with power to impose a fine if the accused should plead guilty; and persons committing assaults and batteries were authorized to do, what was an offer at common law, namely, to "agree, compromise, or settle with the party injured;" and then all further proceedings were to cease. Also, grand juries were prohibited from finding an indictment for an assault and battery, "unless the party accused had been duly recognised to appear in court and answer such prosecution." And, in restraint of frivolous or vexatious prosecutions for offences below the grade of felony, "the name of the prosecutor" was required to be endorsed on the bill of indictment, and he was made "liable for the costs" in case the accused should be acquitted, "unless the court should be of opinion that there was reasonable ground for instituting the prosecution."

In addition to these various provisions, having the same object in view, the bill from the House contained several sections intended to render more effectual the means provided by existing laws for the collection of fines and the costs of conviction, and to relieve the counties from the onerous charge of supporting the offenders in prison, by affording them an opportunity, if they desired it, but if not, by compelling them to labor, like the rest of the community, for their own maintenance. The 16th and 17th sections of the bill, as it passed the Senate, are as follows:

"Sec. 16. That every person adjudged or sentenced to pay a fine for any offence specified in this act, or the act to which this is supplementary, may discharge such fine by labor on the highways of the township in which he resides; and every court or justice upon pronouncing judgment for the payment of a fine, shall specify, and make an order setting out within what period of time, and at what rate of daily wages, the fine may be thus discharged, and upon what road or roads the labor shall be performed, and execution may be staid upon security, or otherwise, to give time for the performance of such labor. The certificate of the supervisor of the proper district shall be evidence, that the whole or any part of the labor has been performed, and if the whole labor is not performed within the time prescribed, the party shall nevertheless have credit for the amount of labor actually performed; and if such labor shall not be performed within the time limited, it shall be the duty of the clerk to issue an execution (without a precipe filed) for the fine and costs.

"Sec. 17. That all persons convicted of any offences specified in this act, or in the act to which this is supplementary, and sentenced to imprisonment, may, during such imprisonment, be put at hard labor in such manner as any two judges of the court of common pleas may direct, and, for the performance of such labor, may be taken from the jail, and so secured as to prevent an escape, and the produce of such labor shall be paid into the county treasury."

Section 19 contained the proposition which has acquired so much unmerited notoriety in the party conflicts of the day, and concerning which there has been so much malignant misrepresentation. Here it is, in all its *terrifying* and *stupendous* proportions, as I find it recorded on the Journal that I hold in my hand. Listen while I read from that Journal a short extract:

Mr. FITHIAN then moved to strike out the 19th section of said bill as follows:

"*Be it further enacted*, That when any person shall be imprisoned, either upon execution or otherwise, for the non-payment of a fine or costs, or both, it shall be lawful for the sheriff of the county to sell out such person as a servant to any person within this State, who will pay the whole amount due, for the shortest period of service; of which sale public notice shall be given at least ten days; and upon such sale being effected the sheriff shall give to the purchaser a certificate thereof and deliver over the prisoner to him, from which time the relation between such purchaser and the prisoner, shall be that of master and servant, until the time of service expires, and for injuries done by either, remedy shall be had in the same manner as is or may be provided by law in case of master and apprentice. But nothing herein contained shall be construed to prevent persons being discharged from imprisonment according to the provisions of the 37th section of the act to which this is supplementary, if it shall be considered expedient to grant such discharge: *Provided*, That the court, in pronouncing upon any person or persons convicted under this act or the act to which this is supplementary, may direct such person or persons to be detained in prison until the fine be paid, or the person or persons otherwise disposed of agreeably to the provisions of this act.

"Which motion was decided in the affirmative: Yeas 20, nays 12. And the yeas and nays being required, those who voted in the affirmative were—

"Messrs. Beasly, Brown, Fithian, Gass, Heaton, Jennings, Lucas, Matthews, McLaughlin, McMillan, Necomb, Robb, Russell, Scofield, Shelby, Spencer, Stone, Swearingen, Thompson, and Womeldorf—20.

"Those who voted in the negative were—

"Messrs. Baldwin, Cole, Foos, Foster, HARRISON, McLean, Ozwalt, Pollock, Ruggles, Roberts, Wheeler, and Speaker—12."

Sir, I have seen the words "master and servant," as employed in this section, dressed out in staring capitals and placed in the foreground of the picture, that they might attract all eyes by having assigned to them a sort of guilty prominency. And what was the object of so shallow a device? It was doubtless to create an impression that this provision was intended to reduce white men to the condition of negro slaves; notwithstanding the section itself carries on its face an express declaration that their condition was to be that of hundreds, not to say thousands, of other white persons in the State, who had been or might be put to service according to the provisions of existing law.

Who does not know that the relation of "master and servant," as proposed to be established by this section, is a relation as ancient and as well regulated as that of any other recognised in civil society? To go no further back, it was known to, and regulated by the common law; and it has been sanctioned and guarded with anxious care by the legislation of every State in the Union, and

by none with more parental solicitude for the rights of the servant, than in the State of Ohio.

It will be observed that the section in question provides that "for injuries done by either [master or servant] remedy shall be had in the same manner as is or may be provided by law in case of master and apprentice."

What that remedy was may be seen by any one who will take the trouble to consult Chase's Statutes vol. 1, pp. 535–'6, in the Library of Congress, where they will find "An act concerning apprentices and servants," passed January 27, 1806, which continued in force till repealed by another act on the same subject, in 1824.

Authority was given by the first section of this act, to "overseers of the poor, by and with the consent of a justice of the peace, and, also, to "parents and guardians," to put out any *child* as an *apprentice* or *servant*." And as the second section provides a remedy for the apprentice or servant in case of ill treatment, and as it is the same remedy that a convict sold out by the sheriff would be entitled to have against the purchaser of his services for any abuse, I beg leave to read it as follows:

"Sec. 2. That if any *master* or *mistress* shall be guilty of any *misusage, refusal of necessary provision or clothing, cruelty, or other ill treatment*, so that said apprentice or *servant* shall have *just cause* to *complain*; or the said apprentice or servant be guilty of any misdemeanor, or ill behavior, or do not perform his or her duty to his or her *master or mistress*, then the said *master or mistress*, apprentice or *servant*, having *just cause of complaint*, may repair to any justice of the peace in the township, who shall, upon the application by *either*, issue his warrant or summons, for bringing the said *master or mistress*, apprentice or *servant*, before him, and take *such order or direction* between the said *master* or *mistress*, apprentice or *servant*, *as the equity* and *justice of the case shall require*."

A reference to the act just quoted seemed to be necessary to prove two things very intimately connected with the charge against General Harrison. First, that the terms "master and servant," which have been made to figure alternately in italics and large capitals, by way of intimation that they concealed some mysterious or dangerous design, are at last very innocent words, and quite familiar to the statutes of my State, from the earliest period of its legislation down to the present time. And, secondly, that prisoners who might be sold by the sheriff, were amply secured against ill treatment, by the humane provisions of that act.

But, sir, this is not all; there was another provision in the 19th section of the bill, by which the benefits secured to *insolvent* prisoners, by the 37th section of the original act, were expressly reserved.

In the "act for the punishment of certain offences therein specified," passed February 11, 1815, (See Chase's Statutes, 2 vol., pages 893–4–5–6–7,) you will find the 37th section here referred to, and which is as follows:

"Sec. 37. That when any person shall be confined in jail for the payment of any fine and costs that may be inflicted agreeably to the provisions of this act, the county commissioners may, if it be made to appear to their satisfaction that the person so confined cannot pay such fine and costs, order the sheriff or jailer of such county to discharge such person from imprisonment; and the sheriff or jailer, upon receiving such order in writing, shall discharge such person accordingly: *Provided*, That the commissioners may at any time thereafter, order and cause to be issued an execution against the body, lands, goods, or chattels of the person so discharged from imprisonment, for the amount of such fine and costs."

It will be observed by the *curious student* of our penal code, that the punishment prescribed for the various offences, defined in the original and supplementary acts, such as theft, burglary, bribery, malicious mischief, riots, assaults, batteries, attempts to corrupt jurors, &c., was fine and imprisonment in the county jail. And that the remedy for enforcing payment of the fines imposed, was by process of "execution against the body, goods, chattels, lands, and tenements of such offender, for the amount of such fine, and the costs of prosecution, which might either be levied on the goods and chattels, lands and tenements, or body of the offender."

It appears, therefore, that any person convicted and fined for any one of the offences specified in the original or supplementary act, could, under the 37th section of the former, procure his discharge from imprisonment, by application to the board of county commissioners, a permanent body, consisting of three members elected by the people of the county, and satisfying them that he was *unable* "to pay such fine and costs." From this review of the laws existing at the time the supplementary bill for the punishment of minor offences, was before the Senate of Ohio, it plainly and incontestably results, that the operation of the 19th section, had it been adopted, must have been limited to a very small class of offenders, and those of the most vicious and hardened kind. For it could not have operated on any one of the following classes:

1. Those who had sufficient means to discharge the fine and costs of prosecution; for, as to such, they would of course relieve themselves at once, by making payment.

2. Those who were poor and destitute; for they could procure their discharge from prison, by making it appear to the satisfaction of the board of county commissioners, that they were *unable to pay*, according to the 37th section.

3. Nor could it extend to those who might be willing to pay the fine by labor on the highways, according to the provisions of the 16th section, already quoted.

4. Nor to those whom the court might sentence to "hard labor," under the provisions of the 17th section, before referred to.

5. And, lastly, it could by no possibility reach the case of an *honest* man.

Then on whom would it operate, you will ask? Sir, I will tell you on whom it would operate; it would take effect, as it was intended it should, on that class of sturdy offenders who, by a *fradulent sale* or *concealment* of their property, had placed it beyond the reach of execution, thereby adding to their original offence the perpetration of a fraud. Persons of this description having property, but refusing to surrender it up, or apply it in payment of their fines, could not, and ought not to be relieved as persons *unable* to pay. No one can fail to see that the 37th section is comprehensive enough, in its remedial provisions, to embrace the case of every offender who does not by his own fraudulent act deprive himself of its proffered benefits.

To those only, then, who preferred fraud and evasion to probity and fair dealing, in the application of their property to the discharge of a fine imposed for a criminal offence, could the 19th section of the bill have been applied.

But it is said that assaults and batteries, though breaches of the law, do not, as most other offences, imply any moral turpitude in those who commit them; and yet they are not exempted from the operation of that section. True, they are not. But in regard to offences of that kind, I have already shown that they might be disposed of under the provisions of the bill that contained the section objected to, in two different ways: 1st. By a plea of guilty before a justice of the peace; 2dly. By amicable agreement and compromise between the parties. Then, if these methods of adjustment failed, a prosecution by indictment was discouraged by the provisions that required the prosecutor to endorse the indictment for costs, and the party accused to be recognised to appear before the court.

Under these various regulations, obviously intended, as indeed their effect was, to discourage prosecutions for assault and battery, but few cases, and those only of an aggravated kind, which the parties could not arrange before the magistrate, or settle between themselves, were ever likely to be carried into court.

Suppose, however, a person imprisoned on account of a fine for assault and battery—an event that could never occur under the legal enactments to which I have referred, without a more than ordinary degree of delinquency, he could, nevertheless, procure his enlargement by any of the means before indicated. And if he did not avail himself of them, but chose rather to be disposed of under the 19th section, it would clearly be his own fault.

In conclusion of my remarks on this branch of the case, I would ask gentlemen to compare the 19th with the 17th section, with a view to adjust their relative claims upon our approbation. If I am not greatly deceived, the latter section confers a power far more likely to prove dangerous and oppressive in its exercise than the former, and yet it passed by a silent vote, and without opposition from any one.

Finally, what is the offence of General Harrison in the premises? Why, sir, in 1821, the House of Representatives of the General Assembly of Ohio, passed a certain bill, by a vote of two to one, and sent it to the Senate, where a motion was made to strike out a particular section; and General Harrison, with other intelligent and patriotic gentlemen, voted against the motion. And this, if you will believe me, is his offence!! A vote given nearly twenty years ago against rejecting a proposition that had received the deliberate sanction of an immense majority of the immediate representatives of the people, and on a question concerning which different opinions were and might be very innocently entertained, is now brought forward as a matter of grave accusation, and one that ought to arouse the whole American people with apprehensions for the safety of their liberties. On the contrary, I shall be greatly mistaken, if they do not, with me, regard the whole affair as utterly paltry and insignificant. Although no discussion was required to vindicate the vote General Harrison gave, yet some explanation seemed to be necessary to correct the wanton misrepresentations propagated in regard to it; and that correction, it is believed, has been effectually applied by a plain statement, showing what that vote was, and the circumstances under which it was given.

I said, in an early part of my remarks, that I intended to say a few words in regard to the estimation in which this charge was held by the people of Ohio. How they have hitherto considered it will appear from a few historical facts. The Hon. Thomas Morris, late Senator of the United States, and who was elected by the Van Buren party in the Legislature of that State, is the author of the famous 19th section; and I presume he has no cause to be ashamed of the paternity. He was a member at the time of the popular branch, in which the bill originated; and, for the support he gave this section, neither he nor any one of the majority with whom he acted was ever called in question. On the contrary, many of that number have since been honored, in various ways, with the confidence and approbation of the people.

Among those who voted with General Harrison in the Senate, against the motion to strike out the section, was Eli Baldwin, whose name you will find in the journal I have read. When General Harrison was a candidate, in 1836, for the Presidency, this same Mr. Baldwin was the candidate of the Van Buren party in that State for the office of Governor. During the canvass, which was a very animated one, the charge was made by the Van Buren party that General Harrison had *voted to sell white men for debt.* But, when it was discovered that Mr. Baldwin had given the same vote, the federal leaders changed their tactics, or rather the scene for displaying them; and they caused the charge, with all its known falsehood, to be put in travelling condition, and sent off to Maryland, in the hope that it might receive there, from the hand of strangers, a more hospitable reception than it had met with at home, where it was better known.

Notwithstanding his vote, Mr. Baldwin received the zealous and undivided support of the federal locofoco party in Ohio; and, by that support, we are furnished with a test of their sincerity in making the charge they now use against General Harrison. Did they believe in the *truth* of that charge when they rushed to the polls to elect Mr. Baldwin to the first office in the State?

[Here Mr. Duncan, of Ohio, rose and said, that he would give it as his deliberate opinion and belief, that Mr. Baldwin lost his election on account of the vote he gave in the Senate of Ohio, in 1821.]

Mr. MASON resumed and said: My colleague will find it a much easier task to declare what his opinion is than to reconcile that opinion with the facts of the case. It is true Mr. Baldwin was defeated by, I believe, about 6,000 votes, (I speak from recollection, without pretending to be precisely accurate;) but why was he defeated? Because (says my colleague in an under tone) the democrats would not go to the polls and vote. Precisely so! And Mr. Van Buren will be defeated next November for the same satisfactory reason. But, then, why would they not go to the polls and vote for Mr. Baldwin? Not, certainly, because he had given, what my colleague, in a late speech against General Harrison, chose to denounce as a very obnoxious vote. They were influenced by no such objection; for, within the space of three weeks after the defeat of Mr. Baldwin, the real democracy of my State not only went to the polls, but they did more, they gave General Harrison, notwithstanding the pretended sin of that vote was on him, fresh in their recollection, a majority over Mr. Van Buren of about 9,000 votes.

Now, sir, as my colleague took the field, and employed all his energies to secure the election of Mr. Baldwin, we know what his opinion *then* was respecting the very same charge he is willing *now* to use against General Harrison. We know he then treated it as false and frivolous; for it formed with him no objecjection against the claims of Mr. Baldwin to his confidence and support. And we further know that nothing has since occurred to render the charge less false and frivolous than it was at that time.

My colleague, (Mr. DUNCAN,) when making his speech the other day, read an extract from the journal of the Senate of Ohio, which set forth the 19th section of the bill, and the proceedings of that body in relation to it. At the same time, he sent to the Clerk's table a paper which he said contained the "remarks" of General Lucas, delivered "*at the time the measure was under discussion;*" and, that the true character of the proposition then "under discussion" might be forever fixed in the minds of the present and all coming generations, he desired that these remarks might be read: and, to give greater force to the remarks of General Lucas, my colleague pronounced an extravagant eulogy on his character and public services. With these praises, whether well or ill-deserved, I have nothing to do. The whole speech, attributed to General Lucas, furnishes internal evidence that it was not made "at the time the measure was under discussion," but is the production of a later period, and the effusion of a heart cankered with the accumulated venom of years; and the last paragraph, unluckily for the author, is perfectly conclusive on this point. It is in these words: "The question was then taken on Mr. Fithian's motion, and carried in the affirmative—yeas 20, nays 12. So this obnoxious provision, *voted for and defended by* WILLIAM H. HARRISON, does not now disgrace the statute book of Ohio."

General Lucas, I incline to think, would have been less bitter in his denunciations had he not forgotten, at the late period when he wrote this speech, that he had himself "voted for" the 17th section, which in its operation on "one of the patriots of the Revolution," who might have been "provoked to commit an assault in defending the honor of his Government," is far more rigorous and degrading than the section against which he has directed the thunder of his reprobation. Before he ventures on writing another philippic against General Harrison, I would call his attention to that section, and ask him why he allowed it to pass, and to "disgrace the statute book of Ohio?" But, sir, as it is a thing unknown in parliamentary proceedings to debate a proposition after it has been decided, and rather difficult to announce, pending the discussion, the precise result of the vote, and to designate the name of a particular individual as having voted in the negative before the question was decided, I should be glad if my honorable colleague would inform me how General Lucas was enabled, *during the debate on a pending motion*, to say that "the question *was then taken;*" that it *was* "*carried in the affirmative*—yeas 20, nays 12;" and to declare, exultingly, that, in conse-

quence of this vote, the "obnoxious proposition, *voted for* and defended by William H. Harrison, does not NOW disgrace the statute book of Ohio!" Such a speech, delivered "*at the time the measure was under discussion*," must have sounded strangely in the ears of his brother Senators!

Again, sir, is it not a little remarkable that the "now Governor of the Territory of Iowa" should *then* have selected the name of General Harrison from the twelve Senators who all voted the same way, and made it the special object of a rude and malignant assault? And think you he would have committed this outrage in his presence? Where was the motive, at that day, for singling out General Harrison, and holding him up to the odium of the country, without one remark on the conduct of those who voted with him? No motive then existed, and no such speech was made.

My colleague has been deceived. This pretended speech, like the charge it is brought to support, has been trumped up to serve the party purposes of a day and then to be consigned to oblivion forever.

I have now done with this stale calumny; and nothing remains for me to do but to deliver it over to the indignant scorn and contempt of an honest and generous people.

[The residue of Mr. MASON's speech, being on other topics, will hereafter be reported.]

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